

EXHIBIT E

1 UNITED STATES BANKRUPTCY COURT
2 SOUTHERN DISTRICT OF NEW YORK

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4 In the Matters of:

5
6 SECURITIES INVESTOR PROTECTION
7 CORPORATION,

8 Plaintiff,

9 v. Adv. Case No. 08-01789-smb

10 BERNARD L. MADOFF INVESTMENT

11 SECURITIES, LLC, ET AL,

12 Defendants.

13 - - - - - x

14 IRVING H. PICARD, TRUSTEE FOR THE

15 LIQUIDATION OF BERNARD L. MADOFF

16 INVESTMENT SECURITIES, LLC, ET AL,

17 Plaintiff,

18 v. Adv. Case No. 10-04898-smb

19 SAREN-LAWRENCE

20 Defendant.

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1 IRVING H. PICARD, TRUSTEE FOR THE
2 LIQUIDATION OF BERNARD L. MADOFF
3 INVESTMENT SECURITIES, LLC, ET AL,
4 Plaintiff,

5 v. Adv. Case No. 10-04946-smb
6 GOLDENBERG,
7 Defendant.

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9 IRVING H. PICARD, TRUSTEE FOR THE
10 LIQUIDATION OF BERNARD L. MADOFF
11 INVESTMENT SECURITIES, LLC, ET AL,
12 Plaintiff,

13 v. Adv. Case No. 11-02760-smb
14 ABN AMRO BANK N.V.,
15 Defendants.

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17 IRVING H. PICARD, TRUSTEE FOR THE
18 LIQUIDATION OF BERNARD L. MADOFF
19 INVESTMENT SECURITIES, LLC, ET AL,
20 Plaintiff,

21 v. Adv. Case No. 10-04377-smb
22 NELSON, ET AL,
23 Defendants.

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1 IRVING H. PICARD, TRUSTEE FOR THE
2 LIQUIDATION OF BERNARD L. MADOFF
3 INVESTMENT SECURITIES, LLC, ET AL,
4 Plaintiff,

5 v. Adv. Case No. 10-04658-smb
6 NELSON,
7 Defendant.

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9 IRVING H. PICARD, TRUSTEE FOR THE
10 LIQUIDATION OF BERNARD L. MADOFF
11 INVESTMENT SECURITIES, LLC, ET AL,
12 Plaintiff,

13 v. Adv. Case No. 10-04728-smb
14 DIGIULIAN,
15 Defendant.

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17
18 U.S. Bankruptcy Court
19 One Bowling Green
20 New York, NY

21
22 May 31, 2017
23 10:40 AM

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1 B E F O R E :

2 HON STUART M. BERNSTEIN

3 U.S. BANKRUPTCY JUDGE

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1 THE COURT: -- I'm familiar with the background.

2 MS. CHAITMAN: Okay. So when I was before you on
3 May 17th, 2016 on my motion to compel the trustee to produce
4 documents to us and other issues, Your Honor said to the
5 trustee and I quote -- well, you said in court, "If the
6 trustee has additional documents, he's got to supplement the
7 disclosure or the production, which he does by adding them
8 to the data room." The trustee completely ignored what you
9 said.

10 THE COURT: What does this have to do with your
11 request for a single date for an expert deadline?

12 MS. CHAITMAN: Because the -- every -- the
13 discovery is ongoing, until we get to the truth, which the
14 trustee has deliberately concealed, we are unable to get --

15 THE COURT: Well, let's stop with the
16 recriminations and all that. You want a single discovery
17 deadline or a single deadline for expert reports, right?

18 MS. CHAITMAN: Right, because those expert reports
19 are going to be based upon the discovery that we're now
20 getting. The trustee -- Magistrate Judge Moss ordered the
21 trustee --

22 THE COURT: What is the deadline that you are
23 proposing?

24 MS. CHAITMAN: There are different deadlines --

25 THE COURT: But you're asking for single one. So

1 THE COURT: Well --

2 MR. JACOBS: -- in any event. I would like --

3 THE COURT: -- I'll decide that after trial.

4 MR. JACOBS: Understood. I would like to correct
5 the record. There was never a motion to compel the trustee
6 to produce any documents pending in this Court, that's a
7 fiction.

8 THE COURT: But I thought I directed you to
9 produce the documents.

10 MR. JACOBS: We said that when the Court allowed
11 the deposition of Mr. Madoff for the specific, narrow
12 purpose of examining as a preliminary matter, as a precursor
13 to an omnibus fraud trial, the start date of the fraud and
14 the Court opened the door to that evidence, we undertook a
15 voluntary effort to search for and identify any material
16 that we may have in BLMIS' possession that would evidence
17 trading --

18 THE COURT: Did Ms. Chaitman --

19 MR. JACOBS: -- from that period.

20 THE COURT: -- did Ms. Chaitman ever ask for
21 trading records in any of her discovery requests?

22 MR. JACOBS: She did. She's been asking for
23 trading records for a very long time, for a couple of years
24 now, starting with the subpoena she served on the Depository
25 Trust Clearing Company. That subpoena was limited in time

1 for 2002 to 2008. We had already served our own subpoena on
2 that entity and produced all of that material. She later
3 expanded the scope of that inquiry to periods prior to 2002.
4 We undertook a diligent and reasonable search for those
5 records, there weren't any, so we didn't produce any.

6 Then the Court allowed Mr. Madoff's deposition on
7 the narrow issue of the start date of the fraud. We
8 voluntarily represented in both this Court and before Judge
9 Moss, the discovery arbitrator, that we would voluntarily
10 undertake an effort to look again for any third party
11 verifiable trading records that would evidence real
12 securities being bought or sold on behalf of IA customers
13 and there weren't any.

14 We have produced recently, in the past six months
15 since we took all of these issues to the discovery
16 arbitrator, a lot of additional documents, but those are
17 various iterations of BLMIS reports, very much like the
18 customer statements, very much like the reports that are in
19 the data room, very much like the tens of thousands, if not
20 hundreds of thousands of documents we've already produced
21 and made available in this litigation that we restored from
22 microfilm at the cost of about half a million dollars in
23 another attempt to try to find earlier trading records and
24 they don't exist because there was no trading for those
25 customers.

1 of trial matters, after the calendar matters.

2 (Pause)

3 THE COURT: Just if, as, and when you make these
4 motions, just write me a letter so I know, and I'll know
5 that the case will probably not be going forward.

6 MS. CHAITMAN: I will do that. I'll do it within
7 the next 30 days, Your Honor.

8 THE COURT: With respect to -- I have two Nelson
9 matters here. Have you distinguished them?

10 MR. HUNT: So there's one --

11 MS. CHAITMAN: One is an IRA account.

12 MR. HUNT: Yeah, there's one Carol Nelson matter
13 and then one that --

14 THE COURT: Oh, I see. Carol. Okay.

15 MR. HUNT: -- involves both Ms. Nelson and her
16 husband.

17 THE COURT: All right.

18 All right. The next one I have is the one
19 involving Carol Nelson.

20 (Pause)

21 THE COURT: I'll give you that October 31st-11/2
22 date.

23 MR. HUNT: Okay.

24 (Pause)

25 THE COURT: At 10 o'clock. I didn't mention.